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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,527	02/22/2002	Daniel Scott Venolia	04860.P0539C3	8352

7590 05/27/2003

James C. Scheller, Jr.  
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Los Angeles, CA 90025-1026

EXAMINER
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BRIER, JEFFERY A

ART UNIT	PAPER NUMBER
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2672

DATE MAILED: 05/27/2003

60

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/082,527

Applicant(s)

VENOLIA, DANIEL SCOTT

Examiner

Jeffery A. Brier

Art Unit

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see page 2.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-16,18,19,21-49,55-60,66-71 and 77-82.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: The terminal disclaimer is improper, see page 2.

Jeffery A. Brier  
Primary Examiner  
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1. The terminal disclaimer filed on 05/02/03 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of has been reviewed and is NOT accepted.

The application/patent being disclaimed has been improperly identified since the number used to identify one of the patents being disclaimed is incorrect. The correct number is 6,061,062 rather than 6,601,062. Applicant correctly made reference to the 6,366,303 patent.

***Response to Arguments***

2. Applicant arguments filed 05/02/03 concerning the obvious type double patenting rejection is not persuasive because the terminal disclaimer did not properly identify U.S. patent No. 6,061,062.

3. Applicant arguments filed 05/02/03 concerning the 35 USC 112 first paragraph rejection of claims 55-60, 66-71, and 77-82 have been fully considered as well as pages 11-13 of the specification. It is noted that the specification described controlling a parameter with one axis of mouse movements and controlling another parameter with a second axis of mouse movements. See page 11 lines 6-12. At page 12 lines 23-32 of the specification applicant described controlling a graphic widget with a value associated with a parameter and controlling the movement of the graphic widget with changes in the value cause by the movement of the mouse along an axis controlling that parameter. Claim 55 claims *adjusting a first parameter under control a first user interface element of the graphical use interface according to the first component, the first user interface element being located in a first region in the graphical user interface; and adjusting a second parameter under control a second user interface element of the graphical use interface according to the second component, the second user interface element being located in a second region in the graphical user*

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*interface.* As stated in the Final Rejection the term parameter is a broad term, however, applicant alleges support for these claims come from pages 11-13 of this specification where it is clear the change in value changes the position of the graphic widget so the *graphic widget is used to represent the value the mouse is controlling* (see page 12 lines 25 & 26) while applicant claims controlling the parameters by controlling the graphical widget (claimed user interface element). Thus, the claims claim controlling the graphic widget to control the parameter values while the specification describes controlling the parameter values to control the graphic widget. Therefore, the specification does not convey that applicant had possession of that which is now sought to be patented.

4. Therefore, the rejection based upon obvious type double patenting is maintained since the terminal disclaimer is improper and the rejection based upon 35 USC 112 first paragraph is maintained.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A. Brier whose telephone number is (703) 305-4723. The examiner can normally be reached on M-F from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (703) 305-4713).

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

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**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



Jeffery A Brier  
Primary Examiner  
Art Unit 2672